

University of Connecticut



Purchasing Agreement for Internal Investigation Services

This Agreement (hereinafter "Agreement") is made and entered into by and between:

University of Connecticut
Purchasing Department
3 North Hillside Road, Unit 6076
Storrs, CT 06269-6076
hereinafter "**University**"

and

Marcum LLP
53 State Street
Boston, MA 02109

hereinafter "**Contractor**"

Richard F. Orr, General Counsel/(860) 486-5796
University Contract Administrator/Phone

Frank Rudewicz/(617) 226-0487
Contractor Contact/Phone

Section 1

- 1.1. **Term:** This Agreement between the **University** and the **Contractor** will govern the provision of goods, services or other considerations referenced herein (hereinafter "Services") from the Effective Date (as defined hereinafter) through the End Date (as defined hereinafter) (the period commencing on the Effective Date and continuing through the End Date, plus the period of any extension exercised pursuant to Section 1.1.3, is referred to herein as the "Term").
 - 1.1.1 "**Effective Date**" is the date this Agreement is fully executed of this Agreement, including execution by the Office of the Attorney General
 - 1.1.2 "**End Date**" is the date that is one (1) year from the Effective Date.
 - 1.1.3 University shall have the option to extend the Term for four additional periods of ninety (90) days each. Contractor agrees to enter into any such amendment(s) to this Agreement as may be necessary to effectuate such extension(s).
- 1.2. **Amendment Terms:** All revisions to this Agreement may only be made by written amendment executed by both parties and approved by the Office of the Attorney General prior to the End Date.
- 1.3. **Brief Summary of Services:** Contractor will provide internal investigation, compliance review, and litigation support services.
 - 1.3.1 **Direction of the Office of the General Counsel.** Contractor acknowledges that it is being engaged by University to provide the Services under the direction of the Office of the General Counsel of the University ("OGC") in anticipation of potential litigation. Accordingly, Contractor acknowledges and agrees that Contractor's activities related to this Agreement, and any deliverables required of Contractor hereunder, may be subject to attorney-client privilege; the work-product doctrine; and other privileges, protections, and exemptions from release. Such privileges belong to the University.
 - 1.3.2 **Assignment by University.** Without limiting the rights of University, University may assign all or part of this Agreement, and all or part of University's rights and responsibilities hereunder (including the right to instruct Contractor to perform some or all of the Services), at University's sole discretion. Without limiting the generality of the preceding sentence, this includes the right to assign the contract,

portions of the contract, or specific tasks to be performed pursuant to the contract to outside counsel ("Special Counsel") retained by or on behalf of the University.

1.3.3 Service Location: Contractor will provide Services at/for the location(s) listed below:

University of Connecticut
Storrs, Connecticut 06269

1.4 Compensation:

1.4.1 Maximum Amount Payable: Twenty Five Thousand and 00/100 Dollars (\$25,000.00)

1.4.2 Payment/Pricing Terms: Amounts invoiced shall be paid **net thirty (30) days** from the date of such invoice.

1.4.3 Invoices: Contractor shall submit monthly invoices to University for Services rendered and costs incurred by Contractor during the preceding month. Invoices shall be in a form reasonably acceptable to University.

1.4.4 Basis of Compensation: Contractor shall be compensated for the Services as follows:

- (a) Contractor shall be paid on an hourly basis for actual time, calculated in increments of 1/10th of an hour, spent providing the Services, multiplied by: (i) for time spent testifying at a deposition, trial, arbitration, or mediation, at 120% of the applicable hourly rate attached hereto as Exhibit D and (ii) for all other Services, at the applicable hourly rates attached hereto as Exhibit D.
- (b) Contractor shall not invoice University for time spent traveling.
- (c) University shall reimburse Contractor for disbursements made by Contractor for goods and/or services made necessary solely due to Contractor's performance of the Services (for illustration purposes, such expenses include mailing and printing of reports requested by University), provided that such disbursements are isolated from expenses unrelated to the Services and provided that any such disbursements in excess of \$50.00 shall be reimbursed only if approved in advance by University.
- (d) Except as otherwise agreed to by University and Contractor in writing, Contractor's compensation for the Services shall be limited to the compensation described in this Section 1.4.4. As such, the hourly rates attached hereto as Exhibit D include, without limitation, Contractor's costs for salaries, benefits, payroll taxes, payroll insurances, computers, cell phones, and travel to/from jobsite.

1.5 Detailed Contractor Responsibilities:

1.5.1 Responsibilities:

- (a) To the extent requested by University in writing (including by email communication), Contractor will provide the Services described in this Section 1.5.1 and in Exhibit C. At the request of University, Contractor shall execute a task letter or similar agreement (a "Task Letter") specifying certain Services to be performed and/or deliverables to be produced by Contractor, and the schedule and compensation for the same, provided that the terms of such Task Letter are, except as provided in the sentence that follows and except as otherwise agreed to by the parties, consistent with the terms of this Agreement. At the request of University, compensation for Services shall be a flat fee equal to the applicable hourly rates attached hereto as Exhibit D multiplied by the numbers of hours reasonably necessary for such Services, plus a reasonable amount for reimbursables described in Section 1.4.4(c).
- (b) In collaboration with University, Contractor will determine whether University has custody of all of the University computer assets which were assigned to any individual designated by University ("Individual") or over which Individual had control.
- (c) Contractor will confirm that Individual's University email account has been preserved and is not subject to deletion or modification. Contractor will obtain a copy

- (d) Contractor will obtain access to the content of Individual's computer assets. Contractor shall review Individual's computer assets for illegal contents and/or evidence of illegal activity and conduct any such other review as may be requested by University.
 - (e) Based on the content of the computer assets in custody, and other available information, Contractor will identify other sources of relevant information. This could include, but is not limited to:
 - i. Identification of other computer hardware utilized by Individual,
 - ii. Identification of Individual's non-University email accounts, and
 - iii. Identification of Individual's social media accounts.
 - (f) Contractor will assist University with regard to additional Electronically Stored Information ("ESI") of Individual and University employees otherwise designated by University. Such assistance may include identification, preservation, collection, processing, review, analysis, production, and presentation of ESI.
 - (g) Contractor will assist the University in determining which, if any, of Individual's computer assets are not needed for any investigation.
 - (h) Contractor will maintain and manage ESI, paper documents, interview notes, physical evidence and other materials relevant to the investigation.
 - (i) Assist the University and any Special Counsel in conducting interviews and necessary background due diligence.
 - (j) Contractor shall produce such documentation and reports of its findings as are requested by University.
 - (k) Contractor will perform all of the Services under this Agreement in a manner consistent with maintaining the integrity of all material and information for use as evidence (including documenting the chain of custody as necessary), maintaining confidentiality, and preserving the work product doctrine protection, the attorney client privilege and other privileges.
- 1.5.2 **Schedule:** Contractor shall perform the Services as expeditiously as is consistent with the orderly and thorough progress of the Services and with prevailing applicable standards and in a manner consistent with any schedule agreed to by University and Contractor.

1.6 **Contractor Representations and Agreements:**

- 1.6.1 **Qualifications and Status:** At all times, Contractor shall utilize qualified personnel to perform the Services. At University's request, Contractor shall deliver copies of any and all current license(s) and registration(s) relating to the provision of the Services by Contractor and/or its assigned personnel. Contractor shall act as an independent contractor in performing this contract, maintaining complete control over its employees. Contractor shall perform all Services in accordance with its methods, subject to compliance with this Agreement and all applicable laws and regulations.
- 1.6.2 **Conflicts of Interest:** Contractor represents that, upon reasonable review of its records and having made reasonable inquiries of the personnel to be assigned to the Services, Contractor is not aware of any reason the provision of the Services and compliance with the terms of this Agreement will conflict with other contractual commitments of Contractor nor of any relationship of an employee with an individual or entity that may impair the objectivity of such employee in performing the Services. Without limiting the foregoing, Contractor shall not assign an employee to provide the Services if such employee's relationship with the University may reasonably impair the objectivity of such employee in performing the Services. In the event Contractor becomes aware of any conflict or potential impairment described in this Section 1.6.2, Contractor shall suspend the Services to the extent necessary to eliminate the effect of such conflict or potential impairment and Contractor shall expeditiously disclose the same to University. University may waive such conflict or potential impairment at University's sole and absolute discretion.
- 1.6.3 **Confidentiality of Documents:** Contractor agrees that it shall not disclose, provide or otherwise make available any material or information provided to Contractor by University to any person other

than authorized employees, and those employees or agents of Contractor whose use of or access to such material or information is necessary in connection with the Services. Contractor shall use all commercially reasonable precautions to protect the confidentiality of such material and information, and shall ensure that all employees of Contractor having access to such material and information understand the commercially reasonable precautions in place, and agree to abide by such precautions. Without limiting the foregoing, Contractor acknowledges and agrees that Contractor's activities related to this Agreement, and any deliverables required of Contractor hereunder, may be exempt from certain disclosure requirements (including, without limitation, disclosure under the Freedom of Information Act) under the attorney-client privilege; the work-product doctrine; and other privileges, protections, and exemptions. The provisions of this Section 1.6.3 shall survive the expiration or earlier termination of the Agreement.

- 1.6.4 **Nondisclosure/Advertising.** Except as necessary for the provision of the Services, Contractor shall not release any information concerning the Services or any part thereof to any individual or entity without the prior written consent of the University. Contractor shall not refer to sales to University for advertising or promotional purposes, including, but not limited to posting any material or data on the Internet, without the prior written consent of the University. The provisions of this Section 1.6.4 shall survive the expiration or earlier termination of the Agreement.
- 1.7 **Intellectual Property.** It is mutually agreed and understood that all finished and unfinished documentation prepared pursuant to this Agreement will become the exclusive property of University, and that University will have the right to immediate possession and use thereof. University will retain all common law, statutory and other reserved rights, including copyrights. The parties agree that the services are being performed and the work product resulting from the Services is being done at the discretion of University and will be considered work for hire. Any rights in and to all original material prepared for University and arising out of the Services or as part of the process of creating the work product will belong exclusively to University, no rights therein being reserved to Contractor. In the event that such works are determined by a court not to be works made for hire, Contractor hereby irrevocably assigns the exclusive copyright for such works to University.
- 1.8 **Assignment:** Contractor may not assign this Agreement without the express written consent of University.
- 1.9 **Exhibits:** The exhibits attached to this Agreement are incorporated herein by reference. The terms of such exhibits shall not limit the terms of this Agreement. Except as provided in Exhibit B, in the event of any conflict or inconsistency between the body of this Agreement and such exhibits, the terms of the body of this Agreement shall govern.
- 1.10 **Notice:** All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests shall be deemed to have been properly served if given by personal delivery, or if transmitted by facsimile with confirmed receipt, or if delivered to Federal Express or other reputable express carrier for next business day delivery, charges billed to or prepaid by shipper; or if deposited in the United States mail, registered or certified with return receipt requested, proper postage prepaid, addressed as follows:

If to the University: Mr. Richard F. Orr, General Counsel
University of Connecticut
Office of the General Counsel
Budds Building
343 Mansfield Road
Storrs, CT 06269-1177

If to the Contractor: Frank Rudewicz, Partner
Marcum LLP
53 State Street, 38th Floor
Boston, MA 02109

[Note: *Any party may change its Notice information by giving written notice in accordance with this Section.]

Section 2 - State of Connecticut Required Terms and Conditions

As an Agency of the State of Connecticut (a sovereign entity) the University is governed by the following terms and conditions, which may not be modified, amended or deleted unless approved by the Office of the Attorney General.

- 2.1. Statutory Authority. Connecticut General Statute §§ 10a-104, 10a-108, 4a-52a, and 10a-151b provide the University with authority to enter into contracts in the pursuit of its mission.
- 2.2. Claims. The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State of Connecticut or the University of Connecticut arising from this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate any legal proceedings in any state or federal court in addition to, or in lieu of, said Chapter 53 proceedings.
- 2.3. Insurance. The Contractor agrees that while performing Services specified in this agreement s/he shall carry sufficient insurance (liability and/or other) as applicable according to the nature of the service to be performed so as to "save harmless" the State of Connecticut from any insurable cause whatsoever. If requested, certificates of such insurance shall be filed with the contracting State agency prior to the performance of Services.
- 2.4. Indemnification.
The Contractor shall indemnify and hold harmless the State of Connecticut, including any agency or official of the State of Connecticut from, and against all costs, claims, damages, or expenses, including reasonable attorney's fees, arising from its negligent acts or omissions in connection with the performance of this Agreement.
- 2.5. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Connecticut.
- 2.6. Non-discrimination
 - (a) For purposes of this Section, the following terms are defined as follows: (i) "Commission" means the Commission on Human Rights and Opportunities; (ii) "Contract" and "contract" include any extension or modification of the Contract or contract; (iii) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor; (iv) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose; (v) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations; (vi) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements; (vii) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced; (viii) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders; (ix) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and (x) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.
For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).
 - (b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and

Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

- 2.7 Executive Orders. The Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency shall provide a copy of these orders to the Contractor. The Contract may also be subject to Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions.
- 2.8. Campaign Contribution Restrictions. For all State contracts as defined in Public Act 10-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice attached hereto as Exhibit A.
- 2.9. Termination for Cause. The University may terminate this contract for cause by providing a written Notice to Cure to the Contractor citing the instances of noncompliance with the contract. The Contractor will have ten (10) days to reply to the Notice to Cure and indicate why the contract should not be terminated and recommend remedies to be taken.
 - (a) If the Contractor and the University reach an agreed upon solution, the Contractor will then have thirty (30) days after such agreement is reached to cure the noncompliance cited in the Notice to Cure.

- (b) If a mutually agreed upon solution cannot be reached within ten (10) days after receipt of Notice to Cure by Contractor, the University reserves the right to terminate the agreement at that time by written notice of such termination.
 - (c) If the mutually agreed upon solution is not implemented within thirty (30) days from the date of agreement, the University reserves the right to terminate the contract at that time by written notice of such termination.
 - (d) The University will be obligated only for those goods or Services rendered and accepted prior to the date of Notice of Termination.
 - (e) Remedies for Default: If the solution mutually agreed upon pursuant to subsection (a) of this Section is not implemented within the thirty (30) days provided in said subsection, the University may procure the subject goods or services from another source and charge any cost difference to the Contractor.
- 2.10. Termination for Convenience.
- (a) The University may terminate this Contract in whole or in part whenever, for any reason, the University shall determine that such termination is in the best interest of the University and/or the State of Connecticut.
 - (b) If this Agreement is terminated by the University pursuant to this section, the University will provide the Contractor thirty (30) days written notice of such intention. In the event of such termination, the Contract Administrator and/or designee will notify the Contractor by certified mail, return receipt requested. Termination will be effective as of the close of business on the date specified in the notice.
- 2.11. Force Majeure. If the performance of obligations under this Agreement are rendered impossible or hazardous or is otherwise prevented or impaired due to illness, accident, Act(s) of God, riots, strikes, labor difficulties, epidemics, earthquakes, and/or any other cause or event, similar or dissimilar, beyond the control of the Contractor, then each party's obligations to the other under this Agreement shall be excused and neither party shall have any liability to the other under or in connection with this Agreement.
- 2.12. Entire Agreement and Amendment. This Agreement is the entire agreement between the Contractor and the University and supersedes and rescinds all prior agreements relating to the subject matter hereof. This Agreement may be amended only in writing signed by both the Contractor and the University and if applicable, approved by the Office of the Attorney General. The Contractor indicates it has read and freely signed this Agreement, which shall take effect as a sealed instrument. The Contractor further certifies that the terms of this agreement are legally binding and its duly authorized representative has signed this agreement after having carefully read and understood the same.
- 2.13. Not used.
- 2.14. Additional Required Contractor Signature Authority, Affidavits and Certifications.
- (a) The individual signing this Agreement on behalf of the Contractor certifies that s/he has full authority to execute the same on behalf of the Contractor and that this Agreement has been duly authorized, executed and delivered by the Contractor and is binding upon the Contractor in accordance with its terms. The Contractor shall provide a Corporate Resolution or other signature authority documentation certifying that the individual executing this Agreement has been authorized by the governing body of the Contractor to sign on behalf of the Contractor. Sample forms can be found at: <http://www.contracts.uconn.edu/corpres.html>
 - (b) The University, as an agency of the State of Connecticut, requires that notarized Gift and Campaign Contribution Certificates (Office of Policy and Management "OPM" Form 1) and Consulting Agreement Affidavits (OPM Form 5) accompany all State contracts/agreements with a value of \$50,000 or more in a calendar or fiscal year. [Form 1 is also used with a multi-year contract to update the initial certification on an annual basis.] The State also requires an Affirmation of Receipt of State Ethics Laws Summary (OPM Form 6) which must accompany large State construction or procurement contracts with a value of \$500,000 or more. Pursuant to Conn. Gen. Stat. § 4-252(c)(1), these documents must be executed by the official who is authorized to execute the contract/agreement on behalf of the Contractor. Ethics Affidavits and Certifications can be found at: <http://www.ct.gov/opm/cwp/view.asp?a=2982&q=386038>
 - (c) An executed Nondiscrimination Certification must also be provided by the Contractor at the time of contract execution for all contracts/agreements with corporations and other entities, regardless of type, term, cost or value. The Certification requires the signer to disclose his/her title and certify that the Contractor has in place a properly-adopted policy, which supports the nondiscrimination requirements of Connecticut law. This Certification is required for all original contracts/agreements as well as amendments. The Nondiscrimination Certification form can be found at: http://www.ct.gov/opm/lib/opm/finance/psa/oag_nondiscrim_certification_080207_fillable_form.doc

[signature page follows]

IN WITNESS WHEREOF, this Agreement has been duly executed by the following parties:

UNIVERSITY OF CONNECTICUT:

By: [Signature]
Print Name: Richard D. Gray
Title: VP For Administration + CFO
Date: 7/15/2013

MARCUM LLP:

By: [Signature]
Print Name: Frank Rudewicz
Title: Partner
Date: July 9, 2013

AGO Approval (As to Form)

By: [Signature]
Print Name: Holly Jean Bray
Date: 7/10/13
Title: Assistant Attorney General

EXHIBIT A - SEEC FORM 11

CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION
Rev. 1/11

**NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND
PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION
AND SOLICITATION LIMITATIONS**

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (*italicized words* are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a

quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly solicit** contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i)

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly solicit** contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor* or *principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/Contractor Limitations."

DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any

state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

Exhibit B

Agreed Specification of Services Regarding the Duty to Safeguard Private Information and Confidentiality (Confidentiality Agreement)

These specifications serve to document agreed upon requirements regarding the duty to safeguard data that is or may become available to Contractor in the course of providing services to and/or on behalf of the University.

Contractor shall comply with the following requirements unless otherwise directed by law or judicial and/or administrative order or prohibited from complying by law or judicial and/or administrative order:

1. **STUDENT DATA.** In the course of performing work for or on behalf of the University, Contractor may have access to data associated with prospective and/or enrolled students. Such information may be subject to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, *et seq.* and the regulations promulgated thereunder at 34 C.F.R. Part 99. Regardless of format or medium (e.g., electronic, paper, audio, video), such information is considered confidential and protected by FERPA. Such information shall not be disclosed or shared with any third party by Contractor, except as permitted by the terms of this Agreement to subcontractors whose services are necessary for Contractor to carry out its services and only then to subcontractors who have agreed to maintain the confidentiality of the data to the same extent required of Contractor under the terms of this Agreement.

Contractor shall implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all University data received from, or on behalf of the University that a reasonably prudent services provider in the same industry would provide under like circumstances. These measures shall be extended by contract between Contractor to all subcontractors used by Contractor who may encounter University data.

In the event any person(s) seek to access protected and confidential data or information, whether in accordance with FERPA or other federal or relevant state law or regulations, that Contractor will promptly inform the University of such request in writing. Contractor shall only retrieve such data or information upon receipt of, and in accordance with, written directions by the University. Contractor shall not provide direct access to such data or information or respond to individual requests. All requests and all data or information retrieved by Contractor in response to such requests shall be provided to the University. It shall be the University's sole responsibility to respond to requests for data or information received by Contractor regarding University data or information. Should Contractor receive a court order or lawfully issued subpoena seeking the release of such data or information, Contractor shall provide immediate notification to the University of its receipt of such court order or lawfully issued subpoena and shall promptly provide the University with a copy of such court order or lawfully issued subpoena prior to releasing the requested data or information.

2. **PERSONALLY IDENTIFIABLE DATA NOT OTHERWISE COVERED BY FERPA.**
 - a.) **CONFIDENTIAL DATA.** The data available to Contractor in the course of providing technical support to or on behalf of the University shall be considered Confidential Information, unless the University indicates otherwise in writing. Such Confidential Information may contain data associated with students, faculty, staff, customers, clients, members of the public, or other individuals affiliated with the University. Information related to such individuals may be protected by federal and/or state laws and regulations, and/or established industry standards. In particular, the contents of such data or information stored and maintained by Contractor may be protected by the Health Insurance Portability and Accountability Act ("HIPAA"), Gramm-Leach Bliley Act ("GLBA"), Electronic Communications Privacy Act (ECPA), federal Red Flags Rule regulations, Federal Trade Commission regulations, Internal Revenue Service regulations and/or other state or federal laws as amended from time to time, and/or by the Payment Card Industry Data Security Standards (PCIDSS), as amended or updated from time to time.
 - b.) Data or information to which Contractor may become privy in conducting its work for or on behalf of the University shall not be disclosed or shared with any third party by Contractor, except as permitted by the terms of this Agreement or to subcontractors whose services are necessary for Contractor to carry out its services and only then to subcontractors who have agreed to maintain the confidentiality of the data to the same extent required of Contractor under this Agreement.

- c.) In the event any person(s) seek to access protected and confidential data or information, such access shall be through the University, and Contractor shall only retrieve such data or information as identified by the University or as otherwise required by federal and/or state law. Contractor shall not provide direct access to such data or information or respond to individual requests.
- d.) Should Contractor receive a court order or lawfully issued subpoena seeking the release of such data or information, Contractor shall promptly inform the University of its receipt of such court order or lawfully issued subpoena prior to releasing the requested data or information.
3. **BREACH OF CONFIDENTIALITY.** The parties agree that any breach of the confidentiality obligations set forth in this Agreement may result in cancellation of this Agreement and/or the ability of Contractor to perform work for or on behalf of the University. In the event that a security breach for which Contractor is responsible exposes the University's confidential data or information to a third party, Contractor will take immediate steps to limit and mitigate such security breach as well as provide immediate notification and information, if known, regarding the breach to the University. Contractor agrees that it shall bear all costs, including, but not limited to, providing notification and identity theft protection for a period of not less than one (1) year, to those affected or potentially affected by any such breach.
4. **NOTIFICATION.** For the purpose of notification to the University of an actual or potential security breach, the following individuals, or their successors, should be contacted, by phone or fax and in writing:
- Chief Information System and Security Officer, University Information Technology Services, University of Connecticut, Math Sciences Building, 196 Auditorium Road, Unit 3138, Storrs, CT 06269-3138, Phone: (860) 486-3743, Fax: (860) 486-5744
 - Assistant Director of Compliance/Privacy, Office of Audit, Compliance & Ethics, University of Connecticut, 9 Walters Avenue, Unit 5084, Storrs, Connecticut 06269-5084, Phone: (860) 486-5256, Fax: (860) 486-4527
5. **RETURN/DESTRUCTION OF DATA.** Upon expiration or termination of the Agreement, Contractor shall return and/or destroy all data or information received from the University in a manner as may be determined between the parties in accordance with agreed upon standards and procedures. Contractor shall not retain copies of any data or information received from the University once the University has directed Contractor as to how such information shall be returned to the University and/or destroyed. Furthermore, Contractor shall ensure that it disposes of any and all data or information received from the University in the agreed upon manner that the confidentiality of the contents of such records has been maintained. If Contractor destroys the information, Contractor shall provide the University with written confirmation of the method and date of destruction of the data.
6. **PROTECTION OF CONFIDENTIAL INFORMATION.** Contractor agrees that it shall not disclose, provide or otherwise make available proprietary or Confidential Information disclosed to Contractor by the University to any person other than authorized employees, and those employees or agents of Contractor whose use of or access to the Confidential Information is necessary in connection with the work being performed by Contractor for or on behalf of the University. Contractor further agrees that it shall not use Confidential Information for any purpose other than in the performance of the work being conducted for or on behalf of the University. Contractor shall use all commercially reasonable precautions to protect the confidentiality of the Confidential Information, and shall ensure that all employees, agents or contractors of Contractor having access to the Confidential Information understand the commercially reasonable precautions in place, and agree to abide by such precautions.
7. **IDENTITY THEFT PREVENTION.** In an effort to combat identity theft, the University maintains a comprehensive *Identity Theft Prevention Program* with a goal of protecting the personal information of students, employees, affiliates and customers. In the course of performing its duties under this Agreement and through its work for or on behalf of the University, Contractor may collect, access and/or receive personal information pertaining to University students, employees, affiliates and customers that can be linked to identifiable individuals (hereinafter "Personal Information"). Such Personal Information is Confidential Information of the University. It is the University's expectation that Contractor will assist the University in its identity theft prevention efforts under *the University's Identity Theft Prevention Program*, as reasonably requested. Contractor shall collect, access, receive and/or use such Personal Information solely for the purposes of conducting its work for or on behalf of the University and otherwise in compliance with any and all applicable federal and/or state

laws. Additionally, Contractor shall safeguard such information in compliance with all applicable federal and state laws, including but not limited to the Fair Credit Transactions Act of 2003 and any regulations promulgated thereunder (e.g., Red Flags Rule regulations), including implementing appropriate policies or procedures for detecting and identifying possible identity theft and similar fraudulent or potentially fraudulent activities, and notify the University of any such suspicious activities. For the purpose of notification to the University, upon identification of a potential or actual issue of identity theft, Contractor shall immediately contact:

- Assistant Director of Compliance/Privacy, Office of Audit, Compliance & Ethics, University of Connecticut, 9 Walters Avenue, Unit 5084, Storrs, Connecticut 06269-5084, Phone: (860) 486-5256, Fax: (860) 486-4527

The provisions of this Confidentiality Agreement shall survive the expiration or earlier termination of the Agreement.

Additional Terms

Marcum LLP ("Marcum," "we," "us" or "our") will provide internal investigation and compliance review services under the direction of the Office of the General Counsel, University of Connecticut "OGC" or "you"). We understand that you and your consultants and counsel may disclose legal theories, as well as other privileged information and work product to us. Accordingly, Marcum agrees that during and after the period of our engagement we will not disclose any privileged or confidential information, attorney work product, opinions or other information disclosed to us in connection with our engagement to any person to whom disclosure has not been authorized by you.

We have undertaken a reasonable review of our records to determine our professional relationships with the persons or entities you identified. We are not aware of any conflicts of interest or relationships that would, in our sole discretion, preclude us from performing the above work for you or your client. The value of our Firm's services to you and your client is founded, in part, on our reputation for professionalism and integrity. Our Firm has been engaged from time to time by a significant number of law firms, both locally and nationally, and it is possible that we are or have been or may become engaged by firms representing clients adverse to your client in this matter. We are not restricted from working on other, unrelated engagements involving the parties and law firms involved in this matter; however, all confidential information gained in this matter will be kept confidential by Marcum.

We will prepare any required or requested written reports, however, our findings may or may not be documented for you in the form of a written report based upon events which occur, and the absence of such written report shall not diminish our rights to be compensated for all work which we have performed.

Although we prefer that a report be rendered, circumstances may result in termination of our services prior to completion of a written report. We will be available for courtroom testimony and appearances as necessary.

Marcum may not terminate services without the consent of the University except in the event of either (a) a material breach by the University that is not cured after notice or (b) a conflict of interest that arises through no fault of Marcum and which cannot be cured or mitigated by a separation of personnel or functions within Marcum or by other practical means. In the event Marcum alleges a material breach by the University the provisions of section 2.9 above will be applied with the parties reversed such that "University" as used therein shall mean Marcum and "contractor" as used therein shall mean the University for purposes of this paragraph.

You further recognize and understand that the scope and type of analyses that we are requested to perform may be changed or other analyses may be required as this matter progresses. We reserve the sole right to decide the methodology to be employed as well as the extent of review, research and other preparation to perform such analyses. Our fees are not contingent upon the outcome of the foregoing matter for which we have been engaged either in terms of any ruling issued or findings made by the Court or in regard to the results of our review and the conclusions which we may reach hereunder. The outcome of our analyses and the result or conclusion which we may reach may not be consistent with the objective of our engagement based upon the documentation which we may review and the facts which we may ultimately discover. Furthermore, the decisions rendered by the Court in this matter may also be inconsistent with our conclusions.

We assume no responsibility under this Agreement other than to render the services outlined herein and as may be agreed upon between us and you. We shall not be liable for any error in judgment or act of omission provided that we have acted in good faith, with reasonable care and professional competence and

not in violation of any law. In no event will our firm be liable for incidental or consequential damages even if we have been advised of the possibility of such damages. Certain values, derived from the reports of others, and which are so designated, may be included in our report. We take no responsibility for those items, nor do we take responsibility to update or disclose any events or circumstances occurring after the date of any report which we issue. No third party shall have any right against Marcum or the University by reason of this engagement for services rendered hereunder.

Exhibit D
Hourly Rates

Our standard rates range from \$150-\$450 per hour, depending on the level and skill sets of the personnel assigned to the task. However, for this engagement, we will discount our standard rates by a minimum of 15%. At this time, personnel who may be required to perform services on this engagement, include, but are not limited to:

Name	Title	Standard Rate	UConn rate
Frank Rudewicz	Partner	\$450/hr	\$375/hr
David Grindle	Senior Manager	\$310/hr	\$265/hr
Oscar Delatorre	Manager	\$265/hr	\$225/hr
Rose Ryan	Manager	\$250/hr	\$215/hr
Brian Peterson	Staff	\$150/hr	\$125/hr
Kati Allison	Staff	\$150/hr	\$125/hr

The rates specified in this Exhibit D shall remain in effect through December 31, 2014. If the engagement extends beyond that time, the rates for Services after that date will be at a minimum discount of 15% of Marcum's standard rates.